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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09,923,032	08/06/2001	Richard William Kubalek	15,454.1	8952

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KIMBERLY-CLARK WORLDWIDE, INC.  
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EXAMINER

KIDWELL, MICHELE M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

84

<b>Office Action Summary</b>	<b>Application No.</b> 09/923,032	<b>Applicant(s)</b> KUBALEK ET AL.	
	<b>Examiner</b> Michele Kidwell	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 29-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

In view of the applicant's remarks filed April 15, 2005, the previous election of species requirement has been withdrawn.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 – 15 and 29 – 33 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, the applicant has amended the claim to recite that the outer cover is integrally joined with the liquid absorbent device (lines 15 – 16). However, lines 9 – 10 recite that the liner and the absorbent are joined with the outer cover to form the liquid absorbent device. It is unclear how the outer cover can be integrally joined with the liquid absorbent device when the outer cover forms the liquid absorbent device itself.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 6, 8 – 14 and 29 – 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Parr (EP 0 471 385A1).

With respect to claim 1, Parr discloses a feminine sanitary protection device for use with an undergarment, comprising a liquid impermeable outer cover having a central longitudinal axis, and including a top edge, a bottom edge, a first side edge and a second side edge, a first side section between the first side edge and the central longitudinal axis, and a second side section between the second the side edge and the central longitudinal axis, a first frangible line in the first side section of the outer cover, and a second frangible line in the second side section of the outer cover (figures 4 – 5 ), a liquid permeable liner and an absorbent medium joined with the outer cover to form a liquid absorbent device (page 2, line 9), at least the liquid absorbent medium being located between the first frangible line and the second frangible line (page 3, lines 45 – 47 and figures 4 – 5), the liquid absorbent device being folded so the outer cover forms the exterior of the folded liquid absorbent device such that, upon removal of portions of the outer cover outboard the frangible lines and unfolding the liquid absorbent device and use of the liquid absorbent device on the undergarment, a remaining portion of the outer cover is integrally joined with the liquid absorbent device and forms a liquid

impermeable layer of the liquid absorbent device that includes the liquid permeable liner and the absorbent medium with the outer cover being located between the liquid absorbent device and the undergarment as set forth in the abstract, on page 3, lines 40 – 49 and in figures 4 – 5.

As to claim 2, Parr discloses a device further comprising a first joining element in the first side section, and a second joining element in the second side section as set forth in figures 1 – 6.

Regarding claims 3 and 9, Parr discloses a device wherein the first joining element and the second joining element join respective portions of the folded outer cover together as set forth in figure 1.

With respect to claims 4 and 31, Parr discloses a device wherein each frangible line is in generally overlapping alignment with itself as set forth in figures 4 – 5.

Regarding claim 5, Parr discloses a device wherein the first frangible line is between the first joining element and the central longitudinal axis, and the second frangible line is between the second joining element and the central longitudinal axis as set forth in figures 4 – 5.

As to claims 6 and 33, Parr discloses a device further comprising a release strip for the liquid absorbent device located on an exterior of the outer cover as set forth on page 2, line 58 to page 3, line 6.

With respect to claim 8, Parr discloses a feminine sanitary protection device for use with an undergarment, comprising a liquid impermeable outer cover having a central longitudinal axis, and including a top edge, a bottom edge, a first side edge and

Art Unit: 3761

a second side edge, a first side section between the first side edge and the central longitudinal axis, and a second side section between the second the side edge and the central longitudinal axis, means in the first side section and in the second side section for removing at least a portion of the first side section and at least a portion of the second side section from the outer cover (figures 4 – 5), and a liquid permeable liner and an absorbent medium joined with the outer cover to form a liquid absorbent device (page 2, line 9), the liquid absorbent device being folded so the outer cover forms the exterior of the folded liquid absorbent device such that, upon removal of at least a portion of the first side section at least a portion of the second side section from the outer cover and unfolding the liquid absorbent device and use of the liquid absorbent device on the undergarment, a remaining portion of the outer cover is integrally joined with the liquid absorbent device and forms a liquid impermeable layer of the liquid absorbent device that includes the liquid permeable liner and the absorbent medium with the outer cover being located between the liquid absorbent device and the undergarment as set forth in the abstract, on page 3, lines 40 – 49 an in figures 4 – 5.

With respect to claim 10, Parr discloses a device wherein the liquid absorbent device with its outer cover is tri-folded as set forth on page 3, lines 40 – 43.

Regarding claim 11, Parr discloses a device wherein the removing means is between the joining means as set forth in figure 5.

As to claim 12, Parr discloses a device further comprising a release strip for the liquid absorbent device wherein the release strip is located on an exterior of the outer cover as set forth on page 2, line 57 to page 3, line 6.

With reference to claims 13 and 14, Parr discloses a device wherein the removing means includes a first frangible line in the first side section, and a second frangible line in the second side section wherein the frangible lines include perforations as set forth on page 3, lines 45 – 47 and in figures 4 – 5.

With respect to claim 29, Parr discloses a feminine sanitary protection device for use with an undergarment, comprising a liquid impermeable outer cover having a central longitudinal axis, and including a top edge, a bottom edge, a first side edge and a second side edge, a first side section between the first side edge and the central longitudinal axis, and a second side section between the second the side edge and the central longitudinal axis, a first frangible line in the first side section of the outer cover, and a second frangible line in the second side section of the outer cover (figures 4 – 5 ), a liquid permeable liner and an absorbent medium joined with the outer cover to form a liquid absorbent device (page 2, line 9), at least the liquid absorbent medium being located between the first frangible line and the second frangible line (page 3, lines 45 – 47 and figures 4 – 5), the liquid absorbent device being folded so the outer cover forms the exterior of the folded liquid absorbent device such that, upon removal of portions of the outer cover outboard the frangible lines and unfolding the liquid absorbent device and placement adjacent the undergarment for use of the liquid absorbent device on the undergarment, a remaining portion of the outer cover is adhered to the liquid absorbent device and forms a liquid impermeable layer of the liquid absorbent device that includes the liquid permeable liner and the absorbent medium with the outer cover being located

Art Unit: 3761

between the liquid absorbent device and the undergarment as set forth in the abstract, on page 3, lines 40 – 49 and in figures 4 – 5.

As to claim 30, Parr discloses a device further comprising a first joining element in the first side section, and a second joining element in the second side section wherein the first joining element and the second joining element join respective portions of the folded outer cover together as set forth in figures 1 – 6.

Regarding claim 32, Parr discloses a device further comprising a first joining element in the first side section, and a second joining element in the section side section wherein the first frangible line is between the first joining element and the central longitudinal axis, and the second frangible line is between the second joining element and the central longitudinal axis as set forth in figures 4 – 5.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as obvious over Moder et al. (US 5,827,251).

The difference between Parr and claims 7 and 15 is the provision that the device comprises a vaginal insertion device placed with the liquid absorbent device.



Moder teaches a vaginal insertion device placed with a liquid absorbent device as set forth in figure 1.

It would have been obvious to one of ordinary skill in the art to modify the absorbent device of Parr to provide a vaginal insertion device because the combination of the absorbent device and the vaginal insertion device provides added leakage protection and a more discreet and convenient product that saves time and money as taught by Moder in col. 4, line 65 to col. 5, line 4 and col. 5, lines 23 – 42.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

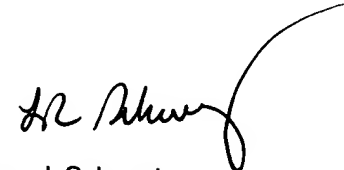
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday - Friday, 5:30am - 2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on 571-272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michele Kidwell  
Examiner  
Art Unit 3761

  
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